

June 25, 1998

## Agency Revision Team Report

The Agency Revision Team (ART) was established to discuss and, if possible, resolve issues that the CALFED agencies have regarding the CALFED Program and Draft Programmatic EIS/EIR. If issues raised could not be resolved by ART, then those issues would be elevated to the CALFED Management Team and CALFED Policy Group for resolution. ART has discussed and either resolved or established a process to resolve many issues that have arisen over the past month. As part of this ART report, one issue is being elevated to Management Team for resolution and a status report is provided below for four other issues of concern.

For each issue described, the action requested of Management Team is characterized in one of three ways:

- Decision item — ART has not reached agreement and is bringing the issue to Management Team for a decision.
- Concurrence requested — ART has reached agreement on a process for resolution and requests concurrence on the process recommended.
- Information item — Discussion but no decision.

1. **Suisun Marsh Levees** ( Decision Item)  
The issue paper is provided as an attachment.

2. **Water Use Efficiency and Water Transfer Concerns** (Concurrence Requested)

The Water Use Efficiency Technical Appendix identifies water savings that would result from implementation of water conservation measures. Further assumptions divide this savings into water that either can or cannot be reallocated to other water supply uses. Based on these assumptions, the potential water supply, water quality, and ecosystem benefits are determined for various regions of the state. These assumptions have been questioned by some CALFED agencies (including EPA) and by some stakeholder groups.

Current Work Efforts. Work efforts to focus on specific aspects of this underlying concern have already been initiated both through the Water Use Efficiency component and the Water Transfers component. These include forums to:

1. Identify necessary actions to obtain potential non-supply related benefits that can be derived from water conservation measures in areas where water is not deemed available for reallocation (e.g., water quality improvements, reduced diversion impacts, other ecosystem benefits), and

2. Review and perhaps propose revisions to the legal statutes that govern transferrable water, including the “no injury” rule applied by the State Water Resources Control Board during review of proposed water transfers. This effort will also examine questions such as: If water returns to a stream, do existing users of this return flow have a legal right to the water? If so, reductions in return flow may not be available for reallocation, but if there is no legal right, are the savings available for reallocation?

Embedded in the underlying concern about water use efficiency assumptions is also a more technical question. This relates to the determination of whether water that might be conserved can be reused by *someone or something* in the downstream system. An example of this could be the use of tailwater from a farm field or effluent discharged by a city being used for other water supply purposes, including environmental purposes such as Delta outflow. The amount of reuse will vary regionally and will be affected by the various hydrologic and geographic conditions which exist throughout the state. We have limited information on regional reuse, and there is no current CALFED work effort to refine information.

Recommended Action by ART: To gain consensus on the portion of conserved water that is available for reallocation, the Agency Revision Team recommends that a team of experts be formed to investigate the current assumptions used in the Water Use Efficiency Technical Appendix. This team will focus on hydrologic questions of downstream reuse in various regions of the state. The assumptions in the technical appendix will be examined and a recommendation will be made to either concur with the existing assumptions or to embark on an additional effort to gain consensus on the appropriate assumptions. Recommendations would be provided prior to the release of a Final Programmatic EIR/EIS.

3. **Upper Watershed Issue** (Concurrence Requested)

Concern has been expressed by some stakeholders and some CALFED agencies (including NRCS, USFS, and others) that the CALFED Program needs to better define the linkage between the “upper” watershed areas (above dams) and the objectives of the CALFED Program. To begin to address this concern CALFED has recently elevated the watershed efforts to a common program, and established an agency team and a BDAC work group to advise on the CALFED watershed strategy.

There is not technical agreement on which actions and programs in the upper watersheds may benefit the Bay-Delta. While there may be water quality, water supply, or ecosystem benefits, the degree of those benefits are not well understood and therefore difficult to determine the level of CALFED involvement in upper watershed programs during implementation of the program in Phase III.

Recommended Action by ART: ART recommends that as part of the existing process established by CALFED, that the agency and BDAC groups be given the task of defining the link between the upper watershed areas and the objective of the CALFED Program. This should involve identification of the schedule and necessary demonstration projects, research efforts and funding to complete the task.

4. **Impacts to Agricultural Lands** (Information Item)

California Department of Food and Agriculture has raised two concerns that may be elevated next month to Management Team and Policy Group. The CDFA staff have drafted issues papers that are currently under internal CDFA review which address the following concerns:

- Does the Draft Programmatic EIS/EIR fully discuss the impacts of the Program to agricultural resources?
- Should additional mitigation measures to reduce impacts to agricultural resources be part of the CALFED Program?

These issues are likely to be presented to Management Team at the July 30, 1998 meeting.

5. **Delta Island Subsidence** (Information Item)

The CALFED Levee System Integrity Program currently focuses on subsidence control on Delta islands only in the areas adjacent to the levees. This is because recent research indicates that subsidence control in the interior areas of the islands does not provide a benefit for levee integrity. Therefore, the interior areas of the islands are not included in the levee program.

The Ecosystem Restoration Program currently includes a nontidal permanent wetlands objective for the Delta islands of up to 17,000 acres. While this habitat is one of the most effective at arresting and potentially reversing subsidence, the acreage objective addresses only a small portion of the Delta.

Concern has been expressed by stakeholders (including the Natural Heritage Institute) that the CALFED Program is not adopting a comprehensive approach to subsidence control in the Delta. While there may be broader benefits to adopting an inner island subsidence control program, ART agrees that expanding the subsidence control program is not consistent with the CALFED Program. However, ART does support the continued efforts of the CALFED Program to maximize subsidence control within the current scope of the ERP and levee program. For example, CALFED could consider the subsidence benefits that could be achieved when identifying areas for nontidal wetlands restoration in the Delta.

**ART ISSUE PAPER  
EXTENSION OF THE CALFED PROGRAM  
TO THE SUISUN MARSH LEVEES**

**Statement of Issue**

*To what extent should the Suisun Marsh levees be included in the levee program or the ERP?* Some stakeholders and CALFED agencies (including California Department of Fish and Game) believe that the Suisun Marsh should be included in the Levee System Integrity Program. Other stakeholders, particularly Delta landowners and Reclamation District engineers, as well as other CALFED agencies, are concerned with doing so.

**Background**

The scope of the CALFED Levee System Integrity Program includes the legally defined Delta and approximately 12 miles of Suisun Marsh levees. The CALFED levee program has adopted the existing Delta levee program, authorized by AB 360, which includes 12 miles of levee within the Suisun Marsh as eligible for special-projects funding. The remainder of the exterior Suisun Marsh levees (approximately 230 miles), however, currently are not included in the AB 360 program or CALFED.

Ensuring exterior levee integrity in the Suisun Marsh is critical to sustaining seasonal wetland values provided by the Marsh's managed wetlands. Exterior levee integrity protects homes, club houses, roads, recreation sites, and State Water Project infrastructure. Improved levees would also ensure that conversion to tidal wetlands will not be due to levee failure, but instead, will be planned with consideration of landowner support, ERP targets, regional wetland goals, and endangered species recovery plans. Extending the program would provide key assurances to wetland managers in the Marsh.

There are four concerns about including the Suisun Marsh:

1. **Link to CALFED Objectives:** Suisun Marsh levees do not provide the same benefits as Delta levees to the CALFED objectives. For example, maintaining some Delta levees provides critical water quality benefits in the Delta. The water quality benefits to the CALFED Program resulting from Suisun Marsh levee integrity is not well known.
2. **Competition for Funds:** Expansion could result in the limited funding available to the Levee Program being diluted further and result in insufficient funding for the Delta itself. Delta stakeholders are generally opposed to any action that would diminish the available funding needed to protect the Delta's levees.

3. Coordination of Tidal and Seasonal Wetland Strategies: Funds could be expended unnecessarily because of future actions to restore tidal emergent wetlands and tidal perennial aquatic habitat to achieve ERP targets. In other words, it would be an inefficient use of public funds to maintain and rehabilitate any Suisun Marsh levees, which could be torn down a few years later. Levee work could interfere with achieving tidal wetlands restoration targets.
4. Partial Expansion of Levee Program: The scope of the proposed program expansion may be inadequate. If it only includes the Emergency Response portion of the program it could result in lost opportunities to make relatively minor repairs and maintenance that would avoid costly levee breaks in the future.

### **Options for Resolving Issue**

#### **Option 1: Expand Scope of Levee Program in the Suisun Marsh**

Approve extension of selected elements of the Levee Program to the Suisun Marsh and include sufficient additional funding through the CALFED Levee Program to ensure no conflict with Delta needs.

Modified versions of the Base Level Protection Plan and Special Improvement Projects, and the Emergency Management Plan elements would be extended to the Marsh. The other components, Subsidence Control Plan and Seismic Risk Assessment, would not be. The PL-99 standard would not apply to the Marsh. An alternate standard, based on the existing levee criteria for the Suisun Marsh, would be selected to ensure that Marsh wetland managers would continue to be eligible for post disaster rehabilitation assistance. A separate funding sub-account would be established so that sufficient funding would be provided to implement this extension without diverting funds needed to support all components of the Levee Program in the Delta. Part of this option includes the development of a more refined description of this program component and a projected cost estimate.

**Pros/Cons.** Selecting this option ensures that the seasonal wetland implementation objectives and targets for the Suisun Marsh contained in the ERP would be met. This option could contribute to fostering support for CALFED from stakeholders in the Marsh. Selection will increase costs for the CALFED Program. Funding may be provided for levee work that may not be the highest priority for meeting CALFED objectives. Cost estimates for Suisun Marsh levee work are unknown at this time.

#### **Option 2: Add Levee Protection Actions to ERP**

Approve adding levee protection measures to the Suisun Marsh to be funded by the ERP. Include sufficient additional funding through the CALFED ERP so that the seasonal wetlands implementation objectives and targets in the ERP can be met.

**Pros/Cons.** Competition for funding will make it hard to set aside funding for the Suisun Marsh levees as part of the ecosystem program. The potential benefits to Delta water quality may not be realized if the effort is limited to the ecosystem program.

### **Option 3: Evaluate Benefits and Costs of Expanding Scope of Levee Program**

Delay decision to expand Levee Program to the Marsh until selected information is obtained and brought back to management. A workgroup would be tasked to develop cost estimates for expanding the levee program and identify benefits to water quality and other Bay-Delta Program objectives.

**Pros/Cons.** Selecting this option could result in an eventual decision to extend the Levee Program at a point where the levee failures have occurred and the expense to repair is significant. Levee stability in the Marsh may not provide significant water quality benefits for Delta agricultural or exports and funding may be wasted on unnecessary research.

### **Option 4: Maintain Current CALFED Involvement in Suisun Marsh**

Reject extension of the Levee Program to the Suisun Marsh. Funding for levees in Suisun Marsh may be provided under the ecosystem program. Funding would be allocated in competition with other ecosystem efforts.

**Pros/Cons.** Reduces the pressure on limited funds and maintains the focus on actions with a clear link to CALFED objectives. Puts at great risk the likelihood that the ERP implementation objectives and targets, for the seasonal wetlands, in the Marsh would be met. Marsh stakeholders may resist CALFED restoration efforts to restore tidal action to selected Marsh wetlands.

### **Recommended Options**

- The DFG recommends Option 1 to the CALFED Management Team and Policy Group.
- Several other CALFED agencies were in support of either Option 3 or 4.